

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ben Gilmore	Team: Team # 4	CCRB Case #: 201400933	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/25/2014 8:15 PM	Location of Incident: § 87(2)(b)	Precinct: 33	18 Mo. SOL 7/25/2015	EO SOL 7/25/2015	
Date/Time CV Reported Sat, 01/25/2014 8:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/30/2014 1:29 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Tristian Latimore	10021	954047	PBMN
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Loughren	31848	955098	PBMN
2. POM Yani Suri	30449	954359	DC DAO
3. POF Brittany Colon	20169	954655	PBMN
4. POM Joseph Mugno	10153	954157	PBMN
5. POF Marlene Nunez	5542	955265	PBMN
6. POM Justin Accetturi	6770	954458	PBMN
7. SGT Keun Lee	00930	930550	PBMN

Officer(s)	Allegation	Investigator Recommendation
A.POM Tristian Latimore	Abuse: PO Tristian Latimore stopped § 87(2)(b)	§ 87(2)(b)
B.POM Tristian Latimore	Abuse: PO Tristian Latimore strip-searched § 87(2)(b)	§ 87(2)(b)
C.POM Tristian Latimore	Abuse: PO Tristian Latimore frisked § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: Officers frisked § 87(2)(b)	§ 87(2)(b)
E.POM Tristian Latimore	Abuse: PO Tristian Latimore searched § 87(2)(b)	§ 87(2)(b)
F. Officers	Abuse: Officers searched § 87(2)(b)	§ 87(2)(b)
G. Officers	Abuse: Officers refused to provide their shield numbers to § 87(2)(b)	§ 87(2)(b)
H. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 25, 2014, § 87(2)(b) called 911 and was connected to the IAB Command Center to file this complaint (encl. 5a). The CCRB received the complaint (IAB original log #14-3174) on January 30, 2014 (encl. 6a-7b). On January 25, 2014, at approximately 8:15PM, § 87(2)(b) was outside of § 87(2)(b) in Manhattan. The following allegations resulted:

Allegation A: Abuse of Authority—PO Tristian Latimore stopped § 87(2)(b)

§ 87(2)(g)

Allegation B: Abuse of Authority—PO Tristian Latimore strip-searched § 87(2)(b)

§ 87(2)(g)

Allegation C: Abuse of Authority—PO Tristian Latimore frisked § 87(2)(b)

Allegation D: Abuse of Authority—Officers frisked § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Abuse of Authority—PO Tristian Latimore searched § 87(2)(b)

Allegation F: Abuse of Authority—Officers searched § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation G: Abuse of Authority—Officers refused to provide their shield numbers to § 87(2)(b)

Allegation H: Abuse of Authority—Officers threatened to arrest § 87(2)(b)

§ 87(2)(g)

This case was ineligible for mediation because § 87(2)(b) filed a lawsuit in regards to the incident.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a Hispanic man who stands 6'2" tall, weighs 310 pounds, with brown eyes and brown hair, was § 87(2)(b) old at the time of the incident.
- § 87(2)(b)

Event Documentation/Police Radio Communications CD (encl. 32a-b)

The audio recording is 1:48:40 in length. The recording opens with a 911 dispatcher calling § 87(2)(b) who said that he had just called to file a complaint against police officers. The Event notes that § 87(2)(b) alleged that a group of five officers with their faces covered stopped him, made him drop his pants, and searched him for no reason.

CCRB Testimony:

§ 87(2)(b) called 911 and was connected to IAB on January 25, 2014 (encl. 5a). § 87(2)(b) provided a telephone statement to the CCRB on March 25, 2014 (encl. 8a). § 87(2)(b) participated in a 50H hearing on § 87(2)(b) (encl. 9a-9t3). § 87(2)(b) was interviewed by the CCRB on March 26, 2014 (encl. 10a-d). § 87(2)(g)

On January 25, 2014, at approximately at approximately 8:15PM, § 87(2)(b) and his wife, § 87(2)(b) exited a bodega at § 87(2)(b) in Manhattan. § 87(2)(b) was grabbed by unidentified uniformed officers and his hands were forced over his head. § 87(2)(b) was placed against the window of the neighboring Metro PCS store.

§ 87(2)(b) said there were as many as eight officers in uniform present, all of whom wore balaclavas which hid the lower part of their faces. Most of the officers were white males, but there may have been two black males. No black females were present. One officer, PO1, was a uniformed white female who was short. Some officers were near § 87(2)(b)'s height, 6'2" tall. § 87(2)(b) could not provide any additional physical description of any of the officers involved in this incident.

PO1 gripped § 87(2)(b)'s left wrist, and another officer who § 87(2)(b) did not see, held his right wrist. § 87(2)(b) was not wearing a belt, and as he stood facing the window of the Metro PCS store with his hands above his head, his pants fell to around his knees leaving his underwear exposed. The officers, § 87(2)(b) did not see which officers or how many, shook the bottom of § 87(2)(b)'s underwear. (§ 87(2)(a) Gen.Mun. §50-H(3)) In his statement to 911, § 87(2)(b) said that officers told him to "drop his pants," that officers pulled his pants down to his ankles and went "between § 87(2)(b)'s] ass." In his telephone statement to the CCRB, § 87(2)(b) said that his pants were pulled down.)

§ 87(2)(b) felt hands—he did not see whose hands nor did he know how many hands--going into his side pants pockets and back pockets. At least five officers were making physical contact with § 87(2)(b) at the same time. An officer gripped each of his wrists, and at least two officers went through his pockets and searched his pants. § 87(2)(a) Gen.Mun. §50-H(3)

As the officers walked away he asked for their badge numbers. An unidentified, uniformed white male officer told § 87(2)(b) that he did not need that information. § 87(2)(b) attempted to follow the officers and take a photograph of them with his camera phone and was told by multiple officers that he would be arrested if he did not leave them alone. Other officers threatened to arrest § 87(2)(b) if he took photos. § 87(2)(b) told the CCRB on November 19, 2014, that the photos were of poor quality and only depicted the backs of officers' heads from a distance.

§ 87(2)(b) believed that both male and female officers threatened him with arrest. Some of the officers involved in the incident were interacting with a double-parked black car that § 87(2)(b) believed to be a taxi. § 87(2)(b) did not know if that driver was issued a summons.

§ 87(2)(b) was not issued a summons nor was he arrested as a result of the incident. § 87(2)(b) witnessed the entire incident. § 87(2)(b) saw a female employee of the Metro PCS store, described as a Hispanic female who appeared to be 24 or 25 years old, watching the interaction.

§ 87(2)(b) also believed that an employee of the bodega named § 87(2)(b) and was described as a Hispanic female in her early 40s, witnessed the incident.

Witness: § 87(2)(b)

- § 87(2)(b) *a black woman who stands 5'8" tall, weighs 130 pounds, with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- § 87(2)(b)
- § 87(2)(b) *is the common law wife of § 87(2)(b)*

CCRB Testimony:

§ 87(2)(b) was interviewed at the CCRB on July 21, 2014 (encl. 11a-d). On January 25, 2014, at approximately 8:15PM, five uniformed police officers surrounded § 87(2)(b) who was standing with his stomach pressed against the front of the Metro PCS store. § 87(2)(b) noticed one uniformed police officer, PO1, as she exited the bodega right before § 87(2)(b) was stopped. PO1 was described as a brown skinned (perhaps Indian or Spanish) male, 5'11" tall, in his late 20s, and possibly wearing glasses. § 87(2)(b) was unable to describe him any further, and she was not sure if PO1 was one of the five officers who she saw surrounding § 87(2)(b).

Of the five uniformed officers who surrounded § 87(2)(b) four of them were males. One of the males, PO2, had blonde hair, was 5'11" – 6'1" tall, had a slim build and was in his late 20s. The female officer who surrounded § 87(2)(b) PO3, was approximately 5'7" tall, had a black ponytail, and was in her early 30s. § 87(2)(b) was unable to describe any of the other officers who surrounded § 87(2)(b). § 87(2)(b) said that a few other uniformed officers were around the vicinity of the incident, but she could not describe them. Many of the officers in the area were wearing winter face masks.

From the stoop of her home, § 87(2)(b) watched as the uniformed officers went inside of § 87(2)(b)'s jacket pockets. § 87(2)(b) was not sure how many officers participated in the search of § 87(2)(b)'s jacket, nor was she sure which officer reached inside of § 87(2)(b)'s jacket pockets. § 87(2)(b) did not see an officer pat the outside of § 87(2)(b)'s person, nor did she see an officer reach into § 87(2)(b)'s jeans pockets. § 87(2)(b) could hear § 87(2)(b) complaining that his pants were falling down, and she could see fabric from his pants bunching at the knee and ankle, which indicated to her that § 87(2)(b)'s pants were falling down. § 87(2)(b) believed that she could see § 87(2)(b)'s boxers. § 87(2)(b) did not see an officer shake the fabric of § 87(2)(b)'s boxers.

After the search, the officers began to walk away from § 87(2)(b). § 87(2)(b) took out his cellphone and was attempting to take pictures of the officers. § 87(2)(b) followed an officer, § 87(2)(b) did not recall which one, towards the end of the block. § 87(2)(b) was not in hearing range when § 87(2)(b) followed the officer toward the end of block, but she was able to see them having a brief conversation. § 87(2)(b) did not hear § 87(2)(b) ask any officer for their name or badge number, nor did she hear any officer threaten to arrest § 87(2)(b). § 87(2)(b) told § 87(2)(b) when he returned that an officer had threatened to arrest him.

Witness: § 87(2)(b)

- § 87(2)(b) *is a Hispanic woman who works at a bodega which is located at § 87(2)(b) in Manhattan.*

Statement to the CCRB:

Inv. Gilmore and Inv. Schiavo conducted field work in the vicinity of § 87(2)(b) in Manhattan on July 3, 2014 (encl. 12a). Inv. Gilmore spoke with an employee of the

bodega which is located at § 87(2)(b). The employee identified herself as § 87(2)(b). § 87(2)(b) refused to provide a sworn statement or to have any of the conversation recorded. Inv. Gilmore left a please call letter for § 87(2)(b) and told her that if she wished to provide a statement on record, she could call the undersigned at the number listed in the letter. To date, § 87(2)(b) has not contacted the CCRB.

§ 87(2)(b) said the male and his wife, identified by the investigation as § 87(2)(b) and § 87(2)(b) were in the bodega, and they bought something from the bodega. Once outside of the bodega, § 87(2)(b) was stopped by police officers. § 87(2)(b) did not fully see what happened and said she did not feel comfortable talking about what she did not see or recall clearly. § 87(2)(b) said that § 87(2)(b)'s pants falling down stuck out in her memory. After § 87(2)(b) was stopped, the officers left and "nothing happened." § 87(2)(b) came into the bodega and asked § 87(2)(b) if she had seen him get stopped and searched, and § 87(2)(b) agreed that she had seen it.

Witness: § 87(2)(b)

- § 87(2)(b) is a Hispanic woman who works at § 87(2)(b) which is located at § 87(2)(b) in Manhattan.

Statement to the CCRB:

Inv. Gilmore and Inv. Schiavo conducted field work in the vicinity of § 87(2)(b) in Manhattan on July 3, 2014 (encl. 12a). § 87(2)(b) said that she witnessed the incident. § 87(2)(b) refused to provide a sworn statement or to have any of the conversation recorded. § 87(2)(b) said that she did not know what led to the stop of the male, and did not know any of the circumstances, so she wished to stay out of the investigation.

§ 87(2)(b) said that she saw a male, identified by the investigation as § 87(2)(b) get stopped by police officers and that § 87(2)(b) was "searched." § 87(2)(b) refused to delineate what she meant by "search." § 87(2)(b) denied that § 87(2)(b)'s pants ever fell down or were pulled down.

Inv. Gilmore left a please call letter with § 87(2)(b) and told her that if she wished to provide any more information, to call the undersigned at the number listed on the letter. To date, § 87(2)(b) has not contacted the CCRB.

NYPD Statements:

Subject Officer: PO TRISTIAN LATIMORE

- PO Latimore is a black man who stands 5'11" tall, weighs 210 pounds, is § 87(2)(b) old, with black hair and brown eyes.
- PO Latimore worked in uniform from 7:30PM on January 25, 2014, until 4:05AM on January 26, 2014. PO Latimore was assigned to 33rd Precinct Impact Post 16 with PO Loughren.

Memo book: (encl. 12a-13e)

PO Latimore's memo book indicates that on January 25, 2014, at 8:15PM, a male was stopped at § 87(2)(b). On a previous tour (January 21, 2014), the male was observed smoking in the building and refused to open the door when asked and ran to the first floor apartment. On January 25, 2014, the male was stopped by PO Latimore just to ask him why he ran (on January 21, 2014). The male spit onto the ground and littered by throwing paper on the floor. I conducted a pat down frisk for my safety and a Stop, Question and Frisk report for the frisk. At 8:21PM, the Stop, Question and Frisk report was prepared.

Stop, Question and Frisk Report (encl. 14a-c)

The report was prepared by PO Latimore, reviewed by Sgt. Mauro, and was entered by PO Arias of the 33rd Precinct. PAA Torenco of the 33rd Precinct ICO Office reported that the handwritten report was unable to be located.

The report indicates that a stop occurred on January 25, 2014, at 8:15PM, outside of § 87(2)(b) in Manhattan. The stopped individual was observed for five minutes prior to the stop, and the individual was stopped for thirty minutes. The crime suspected was criminal possession of marijuana. No arrest was made and no summons was issued.

The stopped individual's name does not appear on the report, but the following pedigree information was listed: white Hispanic male, 6'5" tall, 290 pounds, with brown eyes and black hair.

The individual was stopped and frisked but not searched. The circumstances leading to the stop were 'suspect actions - other, not applicable.' The circumstances leading to the frisk were 'refusal to comply with officers directions.'

Additional factors included: (1) Area has high incidence of reported offense, (2) Evasive, false or inconsistent responses to officers questions; and (3) Changing directions at the sight of officer

CCRB Testimony:

PO Tristian Latimore was interviewed at the CCRB on August 12, 2014 (encl. 15a-c). On January 21, 2014, at approximately 8PM, PO Latimore observed § 87(2)(b) standing alone smoking marijuana inside of the lobby of § 87(2)(b) in Manhattan. PO Latimore was able to discern that it was marijuana because it was packaged in a brown rolling paper and he could smell the odor of marijuana through the closed door of § 87(2)(b) as he approached. PO Latimore asked § 87(2)(b) to open the door, but § 87(2)(b) refused, and he ran into an apartment unit on the first floor. PO Latimore had no further interaction with § 87(2)(b) on January 21, 2014. PO Latimore did not prepare any documentation, including but not limited to a criminal complaint report and memo book entries, regarding this incident.

On January 25, 2014, at approximately 8:15PM, PO Latimore observed § 87(2)(b) exiting a bodega at § 87(2)(b) in Manhattan. PO Latimore approached § 87(2)(b) with the intent of asking him why he ran on January 21, 2014, and PO Loughren followed a few feet behind. PO Latimore asked § 87(2)(b) why he had run away during their previous encounter. § 87(2)(b) denied running away from PO Latimore. PO Latimore asked § 87(2)(b) to step to the side of the bodega entrance so that they could speak.

Without instruction from any officer, and under his own power, § 87(2)(b) turned his back to PO Latimore and raised his hands in the air. As his hands were raised, § 87(2)(b)'s pants fell to just above his knee cap, and most of his boxer shorts were exposed. There was nothing which prevented § 87(2)(b) from pulling up his pants. During the interaction, § 87(2)(b) was free to leave.

§ 87(2)(b) turned around and faced PO Latimore and PO Loughran. § 87(2)(b)'s tone of voice was mellow and his demeanor was calm. § 87(2)(b) did not make any furtive movements or movements towards his waistband. § 87(2)(b) did not have any bulges on his person, and there was nothing which resembled a weapon.

When § 87(2)(b) turned around, he spat on the ground and threw a receipt to the ground. PO Latimore asked for § 87(2)(b)'s ID, and § 87(2)(b) said that he did not have his ID. § 87(2)(b) said his name was § 87(2)(b) and that he lived at § 87(2)(b). PO Latimore wrote this information in his memo book. Because § 87(2)(b) did not have his ID, PO

Latimore was unable to issue him a summons on the scene. PO Latimore used his discretion to not arrest § 87(2)(b).

Because § 87(2)(b) could have been arrested for the spitting and littering, and for his safety, PO Latimore frisked the waistband area of § 87(2)(b). PO Latimore did not feel anything when he patted § 87(2)(b)'s waistband. § 87(2)(b) was not ultimately arrested or given a summons.

PO Latimore did not remember § 87(2)(b) making false, inconsistent, or evasive answers, nor did he recall writing this in the Stop, Question, and Frisk report. § 87(2)(b) did not change directions at the sight of officers, nor did PO Latimore believe he wrote this in the Stop, Question and Frisk report. PO Latimore said that he never wrote down that § 87(2)(b) failed to comply with instructions.

Aside from the frisk of § 87(2)(b), PO Latimore had no further physical contact with § 87(2)(b). PO Latimore did not shake the fabric of § 87(2)(b)'s boxers or jeans, nor did any officer do this. PO Latimore did not make contact with § 87(2)(b)'s bare skin, nor did any officer do this. PO Latimore did not reach inside of any of § 87(2)(b)'s pockets, nor did any officer do this.

No other officer made physical contact with § 87(2)(b). A few other officers from PO Latimore's command were in the vicinity of § 87(2)(b) but none of them interacted with § 87(2)(b) in any way, and PO Latimore did not recall which officers were in the vicinity. PO Latimore did not recall a female officer on the scene. PO Latimore was presented with the roll call, and after viewing it, he thought that PO Suri may have been in the vicinity, but he was not sure.

§ 87(2)(b) did not ask PO Latimore for his name or badge number, nor did he ask any other officer for their name or badge number. PO Latimore never told § 87(2)(b) that he could be arrested for any reason, nor did any officer say this.

Witness Officer: PO JAMES LOUGHREN

- *PO Loughren is a white male who stands 5'8" tall, weighs 165 pounds, is § 87(2)(b) old, with blond hair and blue eyes.*
- *PO Loughren worked in uniform from 3:30PM on January 25, 2014, until 4:05AM on January 26, 2014. PO Loughren was assigned to 33rd Precinct Impact foot post 1B which covers Broadway, from West 156th Street to West 158th Street.*

Memo book: (encl. 16a-b)

PO Loughren's memo book indicates that on January 25, 2014, 9:05PM, he assisted PO Latimore in the stop of one male across from § 87(2)(b). Unknown reason for stop and unknown result of stop. PO Loughren only assisted with his presence at the scene.

CCRB Testimony:

PO Loughren was interviewed at the CCRB on September 10, 2014 (encl. 17a-c). On January 25, 2014, at approximately 9:05PM, PO Loughren was walking out of the precinct stationhouse on Amsterdam Avenue, § 87(2)(b) when PO Latimore motioned to PO Loughren to follow him. PO Loughren crossed Amsterdam Avenue, and followed a couple of feet behind PO Latimore. PO Latimore approached § 87(2)(b) who was at the exit of a bodega at § 87(2)(b). No other officers approached with PO Loughren and PO Latimore. § 87(2)(b) did not appear to be with anyone. PO Loughren did not recognize § 87(2)(b). Nothing drew PO Loughren's attention to § 87(2)(b) aside from PO Latimore leading him to § 87(2)(b) and PO Loughren did not know what drew PO Latimore's attention to § 87(2)(b).

PO Latimore told § 87(2)(b) to step out of the entryway of the bodega and that he wanted to talk to him. § 87(2)(b) asked why he was being stopped, but stepped outside of the bodega as requested. PO Loughren did not recall if PO Latimore provided a response. Throughout the interaction, § 87(2)(b) was not aggressive or violent, he did not make any furtive movements, and was “reluctantly cooperative” with PO Latimore’s instructions. PO Loughren did not observe any bulges on § 87(2)(b)’s person.

PO Latimore requested that § 87(2)(b) turn around and place his hands against the wall. § 87(2)(b) reluctantly complied. PO Latimore frisked the waistband area of § 87(2)(b)’s person. PO Loughren did not recall if PO Latimore frisked anywhere else on § 87(2)(b)’s person, and he did not see PO Latimore go inside any of § 87(2)(b)’s pockets.

PO Loughren was not sure if he assisted in frisking § 87(2)(b). If PO Loughren had frisked § 87(2)(b) it would have only been to assist PO Latimore who had initiated the frisk (under the assumption that PO Latimore had a reason to frisk § 87(2)(b)). There was nothing about § 87(2)(b) which led PO Loughren to fear for his safety, nor was there any reason for PO Loughren to suspect that § 87(2)(b) had a weapon. PO Loughren did not see § 87(2)(b) change directions at the sight of an officer, provide evasive, false or inconsistent answers, or refuse to comply with an officer’s instructions. PO Loughren did not have any reason to suspect that § 87(2)(b) possessed marijuana. PO Loughren was not told that PO Latimore had previously interacted with § 87(2)(b) nor was he told why PO Loughren stopped or frisked § 87(2)(b).

No other officers interacted with § 87(2)(b). Other impact officers were in the area, but PO Loughren did not remember any officer stopping to observe or interacting § 87(2)(b).

After § 87(2)(b) was frisked, PO Loughren walked away from the location. PO Loughren did not recall if PO Latimore proceeded to speak with § 87(2)(b) but PO Loughren and PO Latimore did not leave the location together. PO Loughren walked about a block away and participated in a vehicle stop with two other impact officers, although PO Loughren did not remember which ones. PO Loughren did not make any memo book entries regarding the vehicle stop. PO Loughren did not recall if a ticket or summons was issued as a result of the vehicle stop, but he knew that no arrests were made.

Approximately five minutes after leaving § 87(2)(b) while participating in the vehicle stop, § 87(2)(b) approached PO Loughren and the two unidentified impact officers. § 87(2)(b) was not saying anything, he just appeared to be taking photos of the officers with his cellphone. At no point did § 87(2)(b) ask for PO Loughren’s name or badge number, nor did he hear § 87(2)(b) ask any officer for their name or badge number. PO Loughren did not tell § 87(2)(b) anything to the effect of § 87(2)(b) would be arrested for taking photos, nor did he hear any officer say this. PO Loughren never heard an officer threaten to arrest § 87(2)(b) nor did he observe any officer refuse to provide his or her shield number to § 87(2)(b).

Subject Officer: PO YANI SURI

- *PO Suri is an Indian male who stands 5’11” tall, weighs 200 pounds, is § 87(2)(b) old, with black hair and brown eyes.*
- *PO Suri worked on foot, alone and in uniform from 7:30PM on January 25, 2014, until 4:05AM on January 26, 2014. PO Suri was assigned to 33rd Precinct Impact Post 14.*

Memo book: (encl. 18a-c)

PO Suri does not have any memo book entries regarding the incident.

CCRB Testimony:

PO Yani Suri was interviewed at the CCRB on October 14, 2014 (encl. 20a-b). On January 25, 2014, at 8:00PM, PO Suri issued a parking ticket in front of § 87(2)(b) (encl. 19a). PO Suri issued the ticket with another officer, but he did not recall who.

While issuing the summons, PO Suri heard a black male, identified by the investigation as § 87(2)(b) § 87(2)(b) yelling from across the street. PO Suri did not recall what § 87(2)(b) was saying.

PO Suri crossed the street to observe what was happening in regards to § 87(2)(b) PO Latimore and other officers were on the scene, but PO Suri did not recall which other officers were present, nor did he recall how many officers were present. § 87(2)(b) was standing with his back against a gate, and no one was making physical contact with him. PO Suri did not recall how § 87(2)(b) was behaving physically.

PO Suri asked PO Latimore if everything was alright, and PO Latimore said that everything was alright. PO Suri left the scene. PO Suri did not make any further observations of § 87(2)(b) and he had been at the scene for a total of approximately one minute before he left. There was nothing about § 87(2)(b) which led PO Suri to fear for his safety.

PO Suri never frisked or searched § 87(2)(b) nor did he observe any officer do this. PO Suri never made physical contact with § 87(2)(b) § 87(2)(b) never asked PO Suri for his name or shield number, and PO Suri never heard § 87(2)(b) ask any officer for their name or shield number. PO Suri never said anything to the effect of 'If you take a photo you're going to jail,' nor did he hear any officer say this.

Other Officers Interviewed (encl. 21a-30b)

PO Mugno, PO Acceturi, PO Colon, PO Nunez, and Sgt. Lee were each interviewed by the CCRB. None of these officers had memo book entries regarding the incident, and none of them recognized the photograph of § 87(2)(b). All of these officers said that they were either not present for the incident or did not recall the incident.

NYPD Documents

33rd Precinct Impact Roll Call (encl. 33a-c)

The Roll Call indicates that PO Latimore was assigned to Post 16. PO Suri was assigned to Post 14, PO Mugno to Post 15, PO Acceturi to Post 17, PO Cohen to Post 18, and PO Loughren was assigned to Post 1B. PO Colon and PO Nunez were the only female officers working. Sgt. Lee and Sgt. Mauro were assigned as the Impact Supervisors.

*Received receipt A14/05809 which indicates that Sgt. Mauro retired and PO Adam Cohen resigned.

MISD Request (encl. 31a)

A request to MISD for the name and tax number of the officer who ran any warrant check for § 87(2)(b) on January 25, 2014, yielded negative results.

Office of the Chief of Department Records (encl. 34a-g)

The OCD documentation indicates that Sgt. Brian Mullen conducted an investigation into an improper search allegation made by § 87(2)(b). Sgt. Mullen confirmed that PO Latimore prepared a UF250 regarding a stop at the alleged time and place of occurrence and closed the investigation as 'partially substantiated' on March 12, 2014. No action was taken regarding the partially substantiated allegation. Manager Brown of the Office of Chief of Department reported that there was no more information on file.

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York. A 50H hearing was held on § 87(2)(b) in regards (encl. 9a-9t3).

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilians CCRB History

- This was the first CCRB complaint filed by § 87(2)(b) (encl. 4a).
 - § 87(2)(b)
[REDACTED]

Subject Officer CCRB History

- PO Tristian Latimore has been a member of the service for one year there are no substantiated CCRB allegations against him (encl. 3a).
 - This is the first CCRB case in which PO Latimore is a subject officer.

Conclusion

Identification of Subject Officers

§ 87(2)(b) said there were as many as seven officers in uniform present for the incident, all of whom wore balaclavas which hid the lower part of their faces. § 87(2)(b) said most of the officers were white males, but there may have been two black males. No black females were present. One officer was a uniformed white female who was short. Some officers were near 6'2" tall. § 87(2)(b) could not provide any additional physical description of any of the officers involved in this incident.

PO Latimore prepared a Stop, Question and Frisk Report regarding the incident and was interviewed by the CCRB. The only officer PO Latimore was able to identify as being present was PO Loughren. PO Loughren identified PO Suri as being present. PO Suri was unable to provide the names of any additional officers who were present.

The 33rd Precinct Impact Roll Call indicates that PO Colon and PO Nunez were the only female officers listed on the roll call. Neither PO Colon nor PO Nunez had memo book entries regarding this incident, and both either denied being present or said that they did not recall being present for the incident.

The roll call notes that PO Latimore was assigned to Post 16. PO Suri was assigned to Post 14, PO Mugno to Post 15, PO Acceturi to Post 17, PO Cohen to Post 18, and PO Loughren was assigned to Post 1B. Sgt. Lee and Sgt. Mauro were assigned as the Impact Supervisors. Receipt A14/05809 indicated that Sgt. Mauro retired and PO Adam Cohen resigned. PO Mugno, PO Acceturi, and Sgt. Lee were all interviewed, but they either said they were not there or did not remember the incident.

A Stop, Question and Frisk Report which PO Latimore prepared indicates that § 87(2)(b) was stopped and frisked, and PO Latimore said that he stopped and frisked § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g) PO Loughren partially corroborated § 87(2)(b)'s claim that PO Latimore caused § 87(2)(b) to place his hands against a wall. § 87(2)(b) said that his hands were physically placed against the wall and PO Loughren said that PO Latimore instructed § 87(2)(b) to place his hands against the wall), and PO Latimore acknowledged that during their interaction, § 87(2)(b)'s pants fell down to just above his knee caps. § 87(2)(g)

Although PO Loughren said that he may have assisted PO Latimore in frisking § 87(2)(b), he did not recall, and no other officer said that PO Loughren frisked § 87(2)(b). § 87(2)(b) was unable to say which officers or exactly how many frisked him. § 87(2)(g)

§ 87(2)(g) PO Latimore acknowledged stopping and frisking § 87(2)(b) and that PO Latimore said he was the only officer who made physical contact with § 87(2)(b) the alleged search of § 87(2)(b). § 87(2)(g)

§ 87(2)(g) § 87(2)(b) was unable to describe the additional officers who were involved in searching his person, the officers who refused to provide their shield numbers to him, and who threatened to arrest him, and none of the interviewed officers acknowledged that officers did any of these things. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority—PO Tristian Latimore stopped § 87(2)(b)

PO Latimore approached § 87(2)(b) as he exited a bodega at § 87(2)(b) in Manhattan. § 87(2)(b) said that upon exiting the bodega officers placed his hands against a wall and approximately seven officers surrounded him.

PO Latimore's memo book indicates that § 87(2)(b) was stopped in order to question him about a previous encounter. PO Latimore said that on January 21, 2014, he observed § 87(2)(b) smoking a marijuana cigarette inside of § 87(2)(b)—PO Latimore was able to tell it was marijuana based on the smell and the brown wrapping of the cigarette. PO Latimore was unable to address the issue on January 21, 2014, because § 87(2)(b) refused to open the door of the building and fled. No Criminal Complaint Report was prepared regarding the incident, and PO Latimore did not prepare a memo book entry regarding the incident.

Regarding the interaction on January 25, 2014, PO Latimore said that § 87(2)(b) was free to go during the incident. PO Latimore said that after asking to speak with § 87(2)(b) and asking § 87(2)(b) why he had run away during their previous encounter, § 87(2)(b) raised his hands and turned around without being told to do so and without any officer making physical contact with him.

PO Loughren said that PO Latimore instructed § 87(2)(b) to turn around and place his hands against a wall, and § 87(2)(b) complied. PO Suri said that he heard § 87(2)(b) yelling from across the street and saw officers surrounding him, and when he arrived on the scene, § 87(2)(b) was standing with his back against a gate. No other officers who were interviewed said that they observed or remembered observing the incident.

PO Latimore prepared a Stop, Question and Frisk Report regarding the incident, and the electronic version indicates that § 87(2)(b) was stopped. The circumstances leading to the stop were listed as 'suspect actions - other, not applicable,' and the crime suspected was criminal possession of marijuana. Additional factors included: (1) Area has high incidence of reported offense, (2) Evasive, false or inconsistent responses to officers questions; and (3) Changing directions at the sight of officer. In his CCRB interview PO Latimore did not remember § 87(2)(b) making false, inconsistent, or evasive answers; § 87(2)(b) did not change directions at the sight of officers and § 87(2)(b) did not fail to comply with instructions.

A stop has occurred when a reasonable person does not feel free to decline an officer's request to stop or otherwise does not feel free to terminate the encounter with police, United States v. Drayton 536 U.S. 194 (2002).

In order to conduct a stop, an officer must harbor reasonable suspicion that the stopped individual engaged in a crime classified as a felony or misdemeanor under New York State Penal Law, People v. Debour 40 N.Y.2d 210 (1976) (encl. 1a-k).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority—PO Tristian Latimore strip-searched § 87(2)(b)

During the stop of § 87(2)(b)'s pants became positioned below his waistband, exposing § 87(2)(b)'s boxer shorts.

§ 87(2)(b) was inconsistent in describing how his pants came to be in this position—he told IAB and originally told the CCRB over the phone that officers pulled down his pants, but then told the CCRB during his sworn statement that the pants slipped down and he was unable to lift them up because officers were holding his arms. PO Latimore confirmed that § 87(2)(b)'s pants were slipping down, but PO Latimore said that nothing was preventing § 87(2)(b) from lifting his own pants.

§ 87(2)(g)

Allegation C: Abuse of Authority—PO Tristian Latimore frisked § 87(2)(b)

Allegation D: Abuse of Authority—Officers frisked § 87(2)(b)

§ 87(2)(b) was stopped outside of § 87(2)(b) in Manhattan. § 87(2)(b) alleged that officers shook the fabric of his boxer shorts § 87(2)(a) Gen.Mun. §50-H(3) § 87(2)(b) did not see an officer frisk § 87(2)(b) or shake the fabric of his boxer shorts.

PO Latimore said he frisked § 87(2)(b) and PO Loughren said PO Latimore frisked § 87(2)(b). The Stop, Question and Frisk Report prepared by PO Latimore indicates that § 87(2)(b) was frisked.

PO Latimore said that he frisked § 87(2)(b) for officer safety. PO Latimore said that he did not observe any bulges on § 87(2)(b)'s person, nothing resembled a gun, that § 87(2)(b) did not make any furtive movements or movements towards his waistband, and that § 87(2)(b) was calm throughout the incident. PO Loughren said there was nothing about § 87(2)(b) which led him to fear for his safety, nor was there any reason for PO Loughren to suspect that § 87(2)(b) had a weapon. PO Suri said there was nothing about § 87(2)(b) which led him to fear for his safety. All other interviewed officers denied observing, or did not remember observing, the incident.

The only other reason PO Latimore provided for why he frisked § 87(2)(b) was because § 87(2)(b) was unable to provide identification after PO Latimore observed him litter and spit on the ground. § 87(2)(b) was not handcuffed, issued a summons, or arrested. PO Latimore said that he granted § 87(2)(b) a courtesy by not arresting him in order to issue the summonses for spitting and littering. No other person, civilian or officer, mentioned that § 87(2)(b) spat or littered during the incident.

People v. Debour 40 N.Y.2d 210 (1976) states that in order to frisk an individual, An officer must harbor reasonable suspicion that an individual is in possession of a weapon (encl. 1a-k).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Abuse of Authority—PO Tristian Latimore searched § 87(2)(b)

Allegation F: Abuse of Authority—Officers searched § 87(2)(b)

§ 87(2)(b) alleged that officers reached inside the pockets of his clothing. § 87(2)(b) corroborated that officers reached inside § 87(2)(b)'s pockets. § 87(2)(b) said that she saw officers search § 87(2)(b) but she refused to delineate what she meant by “search.” § 87(2)(b) said that immediately after the incident § 87(2)(b) asked her if she had seen him get stopped and searched, and § 87(2)(b) agreed that she had seen it. § 87(2)(b) also refused to delineate what she meant by “searched.”

PO Latimore said he did not reach inside of any of § 87(2)(b)'s pockets, nor did any officer do this. The Stop, Question and Frisk Report indicates that § 87(2)(b) was not searched. PO Loughren did not see PO Latimore search § 87(2)(b) and PO Loughren did not indicate that he searched § 87(2)(b). PO Suri never searched § 87(2)(b) nor did he observe any officer do so. All other officers interviewed denied observing, or said they did not remember observing, the incident.

As discussed in the analysis of Allegations C and D, PO Latimore acknowledged frisking § 87(2)(b) and one of the reasons he stated for the frisk was that § 87(2)(b) could have been arrested. As per NYPD procedure, an arrestee is frisked and searched prior to being transported in

a police vehicle. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

However, PO Latimore denied searching § 87(2)(b) [REDACTED] and the Stop, Question, and Frisk Report indicates that § 87(2)(b) [REDACTED] was only frisked. Every other interviewed officer indicated that officers did not search § 87(2)(b) [REDACTED] or they did not remember officers searching § 87(2)(b) [REDACTED]
§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G: Abuse of Authority—Officers refused to provide their shield numbers to § 87(2)(b) [REDACTED]

Allegation H: Abuse of Authority—Officers threatened to arrest § 87(2)(b) [REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date